SUPREME COURT RULES
ARTICLE I. APPELLATE PROCEDURE
Current with amendments received through 11-25-03.

Rule 1. Scope of rules. - (a) *Scope of Rules*. These rules govern procedure in appeals to the Supreme Court from the Superior Court and the Family Court, and in applications for writs or other relief which the Supreme Court is competent to give.

(b) *Rules Not to Affect Jurisdiction*. These rules shall not be construed to extend or limit the jurisdiction of any court as established by law.

(c) *Definitions*. "Trial court" as used in these rules refers to any court whose judgment, decision, order or any other determination is subject to review.

Rule 2. Suspension of rules. - In the interest of expediting decision, or for other good cause shown, the Supreme Court may suspend the requirements or provisions of these rules on application of a party or on its own motion and may order proceedings in accordance with its direction.

Rule 3. Appeal--How taken. - (a) *Filing the Notice of Appeal*. An appeal permitted by law from a trial court to the Supreme Court shall be taken by filing a notice of appeal in the trial court. Failure of an appellant to take any step other than the timely filing of a notice of appeal or payment of a filing fee as prescribed by these rules does not affect the validity of the appeal, but is ground only for such action as the Supreme Court or trial court deems appropriate, which may include dismissal of the appeal.

(b) *Joint or Consolidated Appeals*. If two (2) or more persons are entitled to appeal from a judgment or order of a trial court and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the Supreme Court upon its own motion or upon motion of a party to the several appeals.

(c) *Content of the Notice of Appeal*. The notice of appeal shall specify the party or parties taking the appeal and shall designate the judgment, order or decree or part thereof appealed from. Form 1 in the Appendix of Forms is a suggested form of a notice of appeal.

(d) *Service of the Notice of Appeal*. The clerk of the trial court shall serve notice of the filing of a notice of appeal by mailing a copy thereof to counsel of record of each party other than the appellant, or, if a party is not represented by counsel, to the party at his last known address, and shall mail or deliver a copy of the notice of appeal to the clerk of the Supreme Court. The clerk of the trial court shall note on each copy served the date on which the notice of appeal was filed. Failure of the clerk to serve notice shall not affect the validity of the appeal. Service shall be sufficient notwithstanding the death of a party or his or her counsel. The clerk shall note in the docket the names of the parties to whom he or she mails copies, with the date of mailing.

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Rule 4. Appeal – When taken. - (a) *Appeals in Civil Cases*. In a civil case the notice of appeal required by Rule 3 shall be filed with the clerk of the trial court within twenty (20) days of the date of the entry of the judgment, order, or decree appealed from together with a filing fee of one hundred fifty dollars ($150). If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within twenty (20) days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed by this subdivision, whichever period last expires.

The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed in the Superior Court by any party pursuant to the Rules of Civil Procedure of the Superior Court hereafter enumerated in this sentence, or by a timely motion filed in the Family Court for comparable relief pursuant to the rules of that court, and the full time for appeal fixed by this subdivision commences to run and is to be computed from the entry of any of the following orders or comparable orders of the Family Court made upon a timely motion under such rules: (1) granting or denying a reserve motion under Rule 50(b); (2) granting or denying a motion under Rule 52(b) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (3) granting or denying a motion under Rule 59 to alter or amend the judgment; or (4) granting or denying a motion for a new trial under Rule 59. An appeal from a judgment reserves for review any claim of error in the record including any claim of error in any of the orders specified in the preceding sentence. An appeal from such an order shall be treated as an appeal from the judgment. A judgment, order, or decree is entered within the meaning of this subdivision when it is set forth and signed by the clerk of the trial court in accordance with the applicable rules of the trial court. Upon a showing of excusable neglect, the trial court may extend the time for filing the notice of appeal by any party for a period not to exceed thirty (30) days from the expiration of the original time prescribed by this subdivision. Such an extension may be granted before or after the time otherwise prescribed by this subdivision has expired; but if a request for an extension is made after such time has expired, it shall be made by motion with such notice as the court shall deem appropriate.

(b) *Appeals in Criminal Cases*. In a criminal case the notice of appeal by a defendant shall be filed with the clerk of the Superior Court within twenty (20) days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof. If a timely motion in arrest of judgment or for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within twenty (20) days after the entry of an order denying the motion. A motion for a new trial based on the ground of newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made before or within ten (10) days after entry of the judgment. A judgment or order is entered within the meaning of this

subdivision when it is entered in the criminal docket. Upon a showing of excusable neglect the Superior Court may, before or after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed thirty (30) days from the expiration of the time otherwise prescribed by this subdivision.

Rule 5. Filing fees. - (a) *Appeals From Trial Courts*. Every person appealing from a judgment or order of a trial court in a civil case and every person seeking issuance of an extraordinary writ pursuant to Rule 13 shall pay a filing fee as prescribed by these rules. When two (2) or more parties file a joint notice of appeal pursuant to Rule 3(b), each appellant shall pay one hundred fifty dollars ($150).

(b) *Relief From Filing Fees*.

(1) *Appeals From Trial Courts*. A person who desires to appeal a judgment or order of a trial court and who claims that by reason of indigency he or she is unable to pay the filing fee shall, within the time prescribed for filing the notice of appeal, petition the trial court to be relieved from payment of the fee. The petition shall be verified, shall set forth the facts relied upon by the petitioner to demonstrate indigency and shall be accompanied by the notice of appeal which the petitioner desires to file without payment of fee. Upon the filing of a petition for waiver of the filing fee, the running of the time for filing a notice of appeal as prescribed by Rule 4 shall be terminated with respect to the petitioner. If the trial court finds that the petitioner is unable by reason of indigency to pay the filing fee, it shall enter an order directing the clerk of the trial court to accept the notice of appeal without payment of the fee. If the petition is denied, the full time for filing a notice of appeal as prescribed by Rule 4 shall, with respect to the petitioner, commence to run upon entry of the order of denial.

(2) *Extraordinary Writs*. A person seeking the issuance of an extraordinary writ pursuant to Rule 13 who claims that by reason of indigency he or she is unable to pay the filing fee shall petition the Supreme Court to be relieved from payment of the fee. The petition shall be verified and shall set forth the facts relied upon by the petitioner to demonstrate indigency. If the Supreme Court finds that the petitioner is unable by reason of indigency to pay the filing fee, it shall enter an order directing the clerk to accept the petition without payment of the fee.

(c) *Exemption for the State*. The State of Rhode Island, its departments, agencies, boards and commissions shall not be required to pay a filing fee when appealing from a judgment or order of a trial court, or when seeking the issuance of an extraordinary writ.

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Rule 6. Certification of questions of law. -(a) This Court may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or of the District of Columbia, or a United States District Court when requested by the certifying court if there are involved in any proceeding before it questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of this Court.

(b) *Orders and Motions.* This Rule may be invoked by an order of any of the courts referred to in subdivision (a) of this Rule upon that court's own motion or upon the motion of any party to the cause.

(c) *Contents of Certification Order*. A certification order shall set forth

(1) the questions of law to be answered; and

(2) a statement of all facts relevant to the questions certified and showing fully the nature of the controversy in which the questions arose.

(d) *Preparation of Certification Order*. The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing, and forwarded to this Court by the clerk of the certifying court under its official seal. This Court may require the original or copies of all or of any portion of the record before the certifying court to be filed with the certification order, if, in the opinion of this Court, the record or portion thereof may be necessary in answering the questions.

(e) *Costs of Certification.* Fees and costs shall be the same as in civil appeals docketed before this Court and shall be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

(f) *Briefs and Argument*. Proceedings in this Court shall be those provided in these rules governing Rule 12A statements, briefs and arguments as the Court may order. Unless otherwise ordered, the plaintiff shall file the opening brief, the defendant shall file the responding brief, and the plaintiff may file a reply brief. Any party wishing to seek a modification of the foregoing briefing requirements shall move for such relief with the Court.

(g) *Opinion*. The written opinion of this Court stating the law governing the questions certified shall be sent by the clerk under the seal of this Court to the certifying court and to the parties.

Rule 7. Trial court orders for protection of parties pending appeal or petitions for review. (a) The justice or judge of the Superior, Family or District Court who entered the judgment, order, decree, or other determination from which review is being sought, or in case of his or her absence or disability, any justice or judge of the same court, may make such orders for injunction, giving bond, and the appointment of receivers, and such other orders as are needed for the protection of the rights of the parties until the appeal or petition for review shall be heard and determined by the Supreme Court, subject to modification or annulment by order of the Supreme Court upon motion.

(b) In cases requiring the appointment of counsel for appeal to the Supreme Court, the Superior, Family or District Court may appoint counsel solely for the purpose of perfecting the appeal, and insuring that all necessary requests for extensions are filed pursuant to Rule 11(c). When the Superior, Family or District Court makes an appointment for purposes of appeal, the appointment shall be from the panel of attorneys available for appointment in this category in the Supreme Court. All Superior, Family and District court appointments of counsel for appeal shall terminate upon the docketing of the appeal in the Supreme Court. If appointed counsel wishes to provide appellate services to the defendant after the appeal is docketed, counsel must request appointment by the Supreme Court. If counsel appointed by the Superior, Family or District Court does not wish to represent the defendant after the appeal is docketed, counsel shall notify the defendant and file a motion with the Supreme Court requesting appointment of other counsel.

Rule 8. Stay or injunction pending appeal. - (a) *Stay Must Ordinarily Be Sought in Trial Court; Motion for Stay in Supreme Court*. Except in the case of a final decree of the Workers' Compensation Court (review of Workers' Compensation Court's final decrees is governed by Rule 13), application for a stay of enforcement pending appeal, or for an order suspending, modifying, restoring or granting an injunction during the pendency of an appeal, must ordinarily be made in the first instance in the trial court. After a notice of appeal is filed, a motion for such relief may be made to the Supreme Court or to a justice thereof, but the motion shall show that application to the trial court for relief sought is not practicable or that application has been made to the trial court and denied, with the reasons given by it for denial, or that the action of the trial court did not afford the relief to which the moving party considers himself or herself to be entitled. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the motion shall be supported by affidavits or other sworn statements or copies thereof. With the motion shall be filed a copy of the notice of appeal and such parts of the record as are relevant. Reasonable notice of the application shall be given to all parties.

(b) *Stay May Be Conditioned Upon Giving of Bond*. Relief available in the Supreme Court under this rule may be conditioned upon the filing of a bond or other appropriate security.

Rule 9. Release in criminal cases. - Application for release after a judgment of conviction shall be made in the first instance in the trial court. If the trial court refuses release pending appeal, or imposes conditions of release, it shall state in writing the reasons for the action taken. Thereafter, if an appeal is pending, a motion for release or for modification of the conditions of release pending review may be made to the Supreme Court. The motion shall be determined promptly upon such papers, affidavits, and portions of the record as the parties shall present and after reasonable notice to the State.

Rule 10. The record on appeal. - (a) *Composition of the Record on Appeal*. Except as otherwise provided in subsection (c), the original papers and exhibits filed in the trial court, the transcript of proceedings or electronic sound recordings thereof, if any, and a certified copy of the docket entries prepared by the clerk of the trial court shall constitute the record on appeal in all cases.

(b)(1) *The Transcript of Proceedings; Duty of Appellant to Order; Notice to Appellee if Partial Transcript Is Ordered*. Within twenty (20) days after filing the notice of appeal the appellant shall order from the reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary for inclusion in the record. Unless the entire transcript is to be included, the appellant shall, within the time above provided, file and serve on the appellee a description of the parts of the transcript which the appellant intends to include in the record and a statement of the specific points upon which he or she intends to rely on the appeal. If the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall immediately order such parts from the reporter or procure an order from the trial court requiring appellant to do so. The ordering and payment of the copies of the transcript shall be in accordance with the rules of the trial court. Every volume of transcript prepared hereunder shall contain an index of witnesses and exhibits and, where applicable, in actions tried without a jury, a reference to the page upon which the final decision of the trial judge commences.

(2) *Filing of the Transcript.* Upon completion of the transcript, the person who prepared the transcript shall transmit it forthwith to the office designated by the rules of the trial court for ordering transcripts. If that office is not the clerk of the court, then an agent of such office shall deliver the transcript to the clerk of the court for transmission with the record. When the stenographer or other proper party completes and delivers the transcript, he or she shall notify the person who ordered the transcript that it has been completed and delivered.

(c) When further proceedings are pending in the Superior, Family or District Court over aspects of the case not involving the appeal or petition for review, certified copies of the original papers and exhibits filed in the trial court as designated by the parties, along with the transcript contemplated by subsection (b)(1) and a certified copy of the docket entries, shall constitute the record on appeal. Within twenty (20) days after filing the notice of appeal or petition for review, the appellant shall arrange for the clerk to certify copies of such parts of the original papers and exhibits as the appellant deems necessary for inclusion in the record. Unless the entire record is to be included, or the parties agree otherwise in a writing filed with the Court, the appellant shall, within the time above provided, file and serve on the appellee a description of the parts of the original papers and exhibits which the appellant intends to include in the record and a statement of the orders or rulings that he or she intends to appeal. If the appellee deems other parts of the original papers and exhibits to be necessary, the appellee shall immediately arrange for the clerk

to certify such parts or procure an order from the trial court requiring the appellant to do so. The ordering and payment of certified copies shall be in accordance with the rules of the trial court.

(d) *Statement of the Evidence of Proceedings When No Report Was Made or When the Transcript Is Unavailable*. If no report or recording of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including his or her recollection. The statement shall be served on the appellee, who may serve objections or propose amendments thereto within ten (10) days after service. Thereupon the statement and any objection or proposed amendment shall be submitted to the trial court for settlement and approval and as settled and approved shall be included by the clerk of the trial court in the record on appeal.

(e) *Agreed Statement as the Record on Appeal*. In lieu of the record on appeal as defined in subdivisions (a) and (c) of this rule, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as the trial court may consider necessary fully to present the issues raised by the appeal, shall be approved by the trial court and shall then be certified to the Supreme Court as the record on appeal and transmitted thereto by the clerk of the trial court within the time provided by Rule 11. Copies of the agreed statement may be filed as the appendix required by Rule 17.

(f) *Correction or Modification of the Record*. If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the trial court, either before or after the record is transmitted to the Supreme Court, or the Supreme Court, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the Supreme Court.

(g) *Exhibits*. Whenever an exhibit is part of the record on appeal, the original thereof shall be certified and transmitted by the clerk, except that by stipulation or by order of the trial court upon motion and good cause shown a copy thereof may be substituted.

Rule 11. Transmission of the record – Jurisdiction of Supreme Court and trial court over appeals. - (a) *Time for Transmission; Duty of Appellant*. The record on appeal, including the transcript necessary for the determination of the appeal, shall be transmitted to the Supreme Court within sixty (60) days after the filing of the notice of appeal unless the time is shortened or extended by an order entered under subdivision (c) of this rule. Promptly after filing the notice of appeal the appellant shall comply with the provisions of Rule 10(b) or (c) and shall take any other action necessary to enable the clerk to assemble and transmit the record. If more than one appeal is filed, each appellant shall comply with the provisions of Rule 10(b) or (c) and this subdivision, and a single record shall be transmitted. The appellant shall serve notice of filing the transcript upon all other parties.

(b) *Duty of Clerk to Transmit the Record*. When the record is complete for purposes of the appeal, the clerk of the trial court shall transmit it to the clerk of the Supreme Court. The clerk of the trial court shall number the documents comprising the record and shall transmit with the record a numbered list of the documents identifying each with reasonable definiteness. Documents in bulky containers and physical exhibits other than documents shall not be transmitted by the clerk unless he or she is directed to do so by a party or by the clerk of the Supreme Court. A party must make advance arrangements with the clerk of the trial court for the transportation of bulky or weighty exhibits and with the clerk of the Supreme Court for their receipt. Transmission of the record is effected when the clerk of the trial court mails or otherwise forwards the record to the Supreme Court. The clerk of the trial court shall indicate, by endorsement on the face of the record or otherwise, the date upon which it is transmitted to the Supreme Court.

(c) *Extension of Time for Transmission of the Record; Reduction of Time*. The trial court may extend the time for transmitting the record. The request for extension must be made within the time originally prescribed or within an extension previously granted, and the trial court shall not extend the time to a day more than ninety (90) days from the date of filing of the first notice of appeal. If the trial court is without authority to grant the relief sought or has denied a request therefor, the Supreme Court may on motion extend the time for transmitting the record or may permit the record to be transmitted and filed after the expiration of the time allowed or fixed. A motion for an extension of time for transmitting the record made in either court shall show that the inability of the appellant to cause timely transmission of the record is due to causes beyond his or her control or to circumstances which may be deemed excusable neglect. If a request for an extension of time for transmitting the record has been previously denied, the motion shall set forth the denial and shall state the reasons therefor, if any were given.

The trial court or the Supreme Court may require the record to be transmitted and the appeal to be docketed at any time within the time otherwise fixed or allowed therefor.

(d) *Retention by and Transmittal of the Record Back to the Trial Court.* The Supreme Court may order that a certified copy of the docket entries and designated parts of the record shall be transmitted in lieu of the entire record, subject to the right of any party to request at any time during the pendency of the appeal that additional parts of the record be transmitted.

If a record that has been transmitted to the Supreme Court is required in the trial court for use therein pending the appeal, the Supreme Court may order that the record or portions thereof be returned to the trial court and the clerk of such court shall retain it subject to further order of the Supreme Court.

(e) *Record for Preliminary Hearing in the Supreme Court.* If prior to the time the record is transmitted a party desires to make in the Supreme Court a motion for dismissal, for a stay pending appeal, or for any intermediate order, the clerk of the trial court at the request of any party shall transmit to the Supreme Court such parts of the original record as the party shall designate.

(f) *Orders for Dismissal, Extensions to Transmit Record, and Determination of Correctness of Record.* From the time of the filing of notice of appeal, the Supreme Court and trial courts shall have concurrent jurisdiction to supervise the course of said appeal and to promulgate orders of dismissal of appeal for failure to comply with these rules, either upon motion of a party or upon the court's own motion. Motions for extensions of time for transmission of the record and the determination of the correctness of the record shall be submitted in the first instance to the trial court in accordance with Rules 10(f) and 11(c).

From the time of the docketing of an appeal in the Supreme Court, said Court shall have exclusive jurisdiction to supervise the further course of such appeal and enter such orders as may be appropriate, including orders of dismissal for failure to comply with these rules, either on motion of a party or on its own motion. Notwithstanding the provisions of this subsection, if further proceedings are pending in the Superior, Family or District Court over aspects of the case not involved in the appeal or petition for review after the case has been docketed in the Supreme Court in accordance with Rule 10(c), any party wishing to seek a stay of such proceedings shall proceed in the first instance to the trial court, or thereafter by motion to the Supreme Court, which shall determine if a stay is warranted pending the resolution of the appeal. If the original papers and exhibits filed in the trial court or portions thereof are required for the appeal in addition to the certified copies contemplated by Rule 10(c), the Supreme Court may order that such original papers and exhibits or portions thereof be transmitted to the Supreme Court, and the clerk of said Court shall retain them subject to further order.

Rule 12. Filing of the record--Docketing of the appeal. - (a) *Filing of the Record*. Upon receipt of the record by the clerk of the Supreme Court following its timely transmittal, the clerk shall file the record. The clerk shall immediately give notice to all parties of the date on which the record was filed.

(b) *Docketing the Appeal*. Upon the filing of the record, the clerk of the Supreme Court shall thereupon enter the appeal upon the appropriate docket. An appeal shall be docketed under the title given to the action in the trial court with such addition as is necessary to indicate the identity of the appellant.

(c) *Dismissal for Failure of Appellant to Cause Timely Transmission or to Docket Appeal*. If the appellant shall fail to cause timely transmission of the record, any appellee may file a motion in the trial court to dismiss the appeal. Instead of filing a motion to dismiss the appeal, the appellee may cause the record to be transmitted and may docket the appeal, in which event the appeal shall proceed as if the appellant had caused it to be docketed.

(d) *Motions to Correct Record*. Motions to correct the record as transmitted shall be made within twenty (20) days after docketing, or within such further time as the court or any justice thereof may order.

Rule 12A. Statement of the case; single justice conferences; hearing panels. - (1) *Statement of the Case*. Within twenty (20) days after the docketing of the record of an appeal with the clerk of the Supreme Court, the appellant or other moving party shall file a statement of the case and a summary of the issues proposed to be argued on appeal, together with nine (9) copies thereof and the Supreme Court Summary Report form provided by the clerk. The statement shall be concise, not exceeding ten pages (unless special permission is granted by the Court or a justice thereof for additional pages). The party may take out the transcripts and exhibits from the clerk's office in accordance with Rule 29 for reference in the preparation of the statement but shall return them when the statement is filed.

(2) *Counter-Statement*. Within fifteen (15) days after the filing of the above statement, the responding party shall file a counter-statement, together with nine (9) copies thereof, not to exceed ten pages (unless special permission is granted by the Court or a justice thereof for additional pages), and the Supreme Court Summary Report form, unless a joint Summary Report has been filed by all the parties in accordance with Rule 12A(1). The transcripts and exhibits may be taken out for reference in preparing this counter-statement in accordance with Rule 29 but shall be returned upon its filing.

(3) *Single Justice Conferences and Orders*. Following the filing of such statements, the Court may require appearance by counsel for the parties before a single justice of the Court for a conference. The objective of said conference will be to achieve settlement of the dispute in civil cases, to determine the issues on appeal, to determine the manner in which the appeal, cross-appeal or petition for review shall proceed, and to consider whether proceedings over aspects of the case not involved in the appeal, cross-appeal or petition for review are contemplated or pending below while the matter is pending in the Supreme Court. In civil matters, counsel for each party shall confer in advance of the conference with his or her client and obtain authority to settle the matter, if possible. In the event that the single justice of the Court determines it appropriate, he or she may (a) issue an order in accordance with subdivisions 4 and 6 of this rule to either or both parties to show cause why the issues raised by the appeal should not be decided on the show cause calendar, (b) refer the appeal to the Court at a session in conference for a determination of the manner in which the appeal shall proceed or for a disposition of the issues on appeal with or without further filing of memoranda and with or without oral argument, or (c) order that the case be placed on the regular calendar for full briefing and oral argument. The single justice may also order that specific appeals be consolidated or that the case be remanded for specific proceedings or the entry of necessary orders in the trial court or other tribunal.

(4) *Show Cause Supplemental Statements*. In cases in which show cause orders are issued, counsel for either party may submit a supplemental statement not exceeding ten (10) pages unless otherwise ordered, together with nine (9) copies thereof. The appellant or other moving party may submit this statement within twenty (20) days of the issuance of the show

cause order; the responding party may file a counter-statement within ten (10) days thereafter. The single justice may vary the time of filing as well as the length of memorandum by special order. No party may submit a further supplemental statement or post-argument memorandum, or other communication of any kind, without the prior approval or direction of the Court or a justice thereof upon motion in accordance with Rule 28.

(5) All papers filed pursuant to this Rule shall be in the form set forth in Rule 18(b).

(6) *Show Cause Arguments, Orders, and Decisions*. The show cause argument shall be conducted before a hearing panel of this Court consisting of at least three justices, except for appeals in criminal cases which shall be heard by the full court or by as many members of the Court as are available. The Court or hearing panel may issue an order or opinion dismissing the appeal, reversing or modifying the judgment, or remanding the case to the appropriate trial court or other tribunal for further proceedings. The Court or panel may if it sees fit determine that the case should be placed on the regular calendar for full briefing and argument.

(7) *Cases Referred to the Full Court*. Cases referred to the Court for a determination of the manner in which the appeal shall proceed or for disposition with or without briefing or oral argument may be (a) ordered to be placed on the regular calendar for full briefing and argument, (b) decided by the Court on the merits of the controversy without further briefing or oral argument, or (c) ordered to be placed on the motion calendar with such further filing of supplemental memoranda as the Court may require for oral argument before a hearing panel of the Court consisting of at least three justices, except for appeals in criminal cases and proceedings pursuant to Rule 6 which shall be heard by the full court or as many members of the Court as are available.

Rule 13. Extraordinary writs. - (a) *Petition for Issuance of Writ*. Other than for habeas corpus and except where otherwise provided for by statute a proceeding seeking the issuance of an extraordinary writ shall be by petition. The petition shall include (1) a concise statement of the case containing the facts material to consideration of the questions presented in sufficient detail as to enable the Supreme Court to determine the desirability of issuance of the writ; (2) a statement setting forth with particularity why the relief sought is not available in any other court, or cannot be had through other appellate processes, including whether a notice of appeal has been filed with the Court and why that is not sufficient; and (3) a copy of any order or opinion which the petitioner seeks to have reviewed and any other parts of the record which may be essential to an understanding of the matters set forth in the petition. A memorandum shall be appended to the petition stating the grounds relied upon by the petitioner, together with citations of the authorities in support thereof. The petitioner shall serve upon all other parties a copy of said petition and memorandum. The petitioner shall file the original and nine (9) copies of the petition and memorandum in the office of the clerk of the Supreme Court and shall pay to the clerk a filing fee of one hundred fifty dollars ($150) per petitioner.

(b) *Memorandum in Opposition*. Within (20) days after service of a petition for issuance of an extraordinary writ, together with the supporting memorandum, or within such other time as the Supreme Court or a justice thereof shall order, any adverse party may file a memorandum in opposition, disclosing any matter or ground why the writ should not issue, and shall serve a copy thereof upon the petitioner and all other parties. No motion by a respondent to dismiss, quash, supersede, or such other motion on application for an extraordinary writ will be received. Objections to the jurisdiction of the Court to grant the writ petitioned for may be included in the memorandum in opposition.

(c) *Reply Memorandum.* The petitioner may file a reply memorandum within ten (10) days after service of the memorandum in opposition. No party may file any further memorandum or brief without the prior approval or direction of the Court.

(d) All papers filed pursuant to this Rule shall be in the form set forth in Rule 18(b).

(e) *Order Granting or Denying Petition*. Upon the granting or denying of a petition, an appropriate order will be entered and the clerk shall give notice thereof to all parties. If the petition is granted, appropriate process shall issue and the cause shall thereafter proceed in accordance with these rules; and it shall be incumbent upon the petitioner to comply with the requirements of these rules for the preparation and transmission of the record on appeal. If the writ in question calls for review of the record of a court or other tribunal, allegations of fact contained in the petition which are not contained in the record under review shall not be considered to be established. A denial of a petition, without more, is not an adjudication on the

merits and has no precedential effect, and such action is to be taken as being without prejudice to a further application to this Court or any court for the relief sought.

(f) *Stay Pendente Lite*. A petitioner may apply to any justice of the Supreme Court for a stay of other proceedings pending a determination by the Court on the issuance of the writ.

(g) *Effectiveness of Other Provisions*. Except as herein specifically amended, modified, changed or supplemented, all rules and statutory provisions in respect to the extraordinary writ shall remain in full force and effect.

Rule 14. Habeas corpus. - (a) *Application for Writ; Order to Show Cause in Lieu of Issuance of Writ*. Upon the making of an application for a writ of habeas corpus in accordance with statutory provisions, the Court, in lieu of issuance of the writ, may direct the respondent to show cause why the writ should not issue.

(b) *Answer to Order to Show Cause*. Within twenty (20) days after receiving notice of entry of a show cause order, or within such other time as ordered by the Court or a justice, the respondent shall file with the clerk of the Court a signed answer under oath in which the respondent shall set forth the matter required by R. I. Gen. Laws § 10-9-8 to be included in a return to a writ of habeas corpus as well as any additional facts upon which the respondent relies to justify his or her detention of the applicant. The respondent shall append to his or her answer a memorandum of law setting forth the reasons why the writ should not issue, together with citations to authorities in support thereof. A copy of the answer and memorandum shall be served by respondent on the attorney for the applicant, or on the applicant if he or she is not represented by counsel.

(c) *Reply of Applicant to Answer of Respondent*. Within ten (10) days after receiving the answer and memorandum, or within such other time as ordered by the Court or a justice, the applicant, if he or she desires to controvert or reply to any of the matters set forth in the answer, shall file with the clerk of the Court a signed reply under oath setting forth any matter or ground in support of the application or in denial of the facts set forth in the answer. The applicant shall append to his or her reply a memorandum of law setting forth the reasons why the writ should issue or his or her release should be ordered together with citations of authorities in support thereof. A copy of the reply and memorandum shall be served by the applicant upon the attorney for the respondent, or upon the respondent if he or she is not represented by an attorney.

(d) *Number of Copies of Answers and Replies*. All answers or replies and memoranda filed pursuant to this rule shall be accompanied by nine (9) copies, except that the requirement for filing copies shall be waived if the person filing a reply is without counsel and if, because of the place of his or her detention, the preparation of copies is not feasible.

(e) *Subsequent Proceedings*. Upon the grant or denial of the writ an appropriate order will be entered. The clerk shall thereupon notify all parties to the proceeding of entry of such order. If the application for the writ is granted, the writ and appropriate process shall issue; thereafter the cause shall, without the necessity of either party filing any further pleadings, be docketed on the return day and shall be assigned for hearing pursuant to the provisions of Rule 22. Briefs of the respective parties shall be filed pursuant to Rule 16. Upon issuance of the writ, it shall be incumbent upon the petitioner to comply with the requirements of these rules for the preparation and transmission of the record on appeal, except that if the petitioner has been

granted permission to proceed in forma pauperis the Court may, where the respondent is a state official, direct the Attorney General to arrange for the preparation and transmission of the record.

Rule 15. Applications by indigent litigants and persons in custody. - The Court recognizes that full compliance with the formalities of the rules of this Court cannot always be expected of those not represented by counsel, particularly when such persons are in confinement. Ordinarily, the Court will only entertain petitions or other applications for relief which contain the following information:

(a) The name of the court whose judgment or order is sought to be reviewed and the title of the case (i.e., the names of the parties).

(b) The date on which such judgment or order was made or on which an application for rehearing or other relief was denied.

(c) The nature of the decision about which the petitioner or other applicant is complaining, together with a copy of any opinion or other document that the petitioner or other applicant has available, or the citation to any such opinion if the petitioner or other applicant knows of the same.

(d) A statement of what relief the petitioner or other applicant has attempted to obtain since entry of the judgment or order complained of, and the result of such attempt.

(e) A statement of the grounds on which the petitioner or other applicant relies for relief.

(f) A statement of the relief which the petitioner or other applicant requests from the Court.

Rule 16. Briefs. – (a) *Brief of Appellant or Other Moving Party*. Within forty (40) days after the date on which the clerk of the Supreme Court notifies the appellant or other moving party that the case to be reviewed has been assigned to the regular calendar for full briefing and argument, the appellant or other moving party shall file in the office of the clerk a printed or typewritten brief signed by the counsel presenting it together with nine (9) copies thereof, and the Supreme Court Summary Report form provided by the clerk if one has not already been filed in accordance with Rule 12A(1). The brief shall contain (1) a brief and concise statement of the facts and the prior proceedings in the case together with page citations to the places in the record and the appendix where such can be found, (2) a specification of the errors claimed with a page citation to the places in the record and the appendix where such error can be found, (3) the specific questions raised duly numbered and for each question, a concise statement of the applicable standard of review (which may appear in the discussion of the question or under a separate heading placed before the discussion of the questions), (4) the points made, together with the authority relied on in support thereof, (5) a conclusion setting forth with particularity the relief to which the party believes himself or herself entitled, and (6) an index of authorities arranged alphabetically indicating at what page or pages of the brief each authority is cited. Errors not claimed, questions not raised and points not made ordinarily will be treated as waived and not be considered by the Court. In cases where it may be necessary for the Court to examine the evidence, the party shall specify in his or her brief the leading facts that the party deems to be established by the evidence, with a reference to the pages of the record and the appendix where the evidence of such facts may be found, which references will be relied upon by the Court in its consideration of such facts. Ordinarily the Court will not consider evidence not referenced in conformity with this subdivision.

(b) *Brief of Appellee or Other Adverse Party*. Brief of Appellee or Other Adverse Party. Within forty (40) days after the brief of the appellant or other moving party has been filed, the appellee or other adverse party shall file his or her brief together with nine (9) copies thereof in the office of the clerk, and the Supreme Court Summary Report form if one has not already been filed in accordance with Rule 12A(2), unless a joint Summary Report has been filed by all the parties in accordance with Rule 16(a). The brief of the appellee or other adverse party shall conform to the requirements of subdivision (a), except that no specification of errors is necessary and no statement of the case need be made beyond what may be deemed necessary to correct any inaccuracy or omission in the statement of the appellant or other moving party.

(c) *Reply Briefs; Supplemental Briefs and Special Orders*. The appellant or other moving party may file a reply brief within twenty (20) days after the filing of a brief by the appellee or other adverse party. Except as otherwise provided in subsections (d) and (e), no party may submit any further or supplemental brief or post-argument memorandum, or other communication of any kind, without the prior approval or direction of the Court or a justice

thereof upon motion in accordance with Rule 28. Nothing in this rule shall prevent the making in any case, of a special order by the Court in regard to the time for filing any briefs.

(d) *Briefs in a Case Involving a Cross-Appeal or Cross-Petition.* Unless otherwise ordered, if a matter is before the Court on cross-appeals or on the cross-granting of certiorari, the party filing the first notice of appeal or petition for writ of certiorari is the appellant or petitioner and shall file the opening brief in accordance with subdivision (a), the party filing the second notice or petition is the appellee or respondent and shall file a responding brief in accordance with subdivision (b) which also addresses the issues raised in the cross-appeal or cross-petition, the appellant or petitioner may file a reply brief in accordance with subdivision (c), and the appellee or respondent who has cross-appealed may file a brief in reply to the appellant's or petitioner's response to the issues presented by the cross-appeal or cross-petition. If notices or cross-petitions are filed on the same day, the plaintiff in the proceeding below is the appellant or petitioner. Except as otherwise provided in subsection (e), no party may submit any further or supplemental brief or post-argument memorandum, or other communication of any kind, without the prior approval or direction of the Court or a justice thereof upon motion in accordance with Rule 28. Any party wishing to seek a modification of the foregoing briefing requirements shall move for such relief prior to the Rule 12A single justice conference.

(e) *Citation of Supplemental Authorities.* If pertinent and significant authorities come to a party's attention after the party's briefs have been filed, or after oral argument but before decision, a party may promptly file a document entitled "Citation of Supplemental Authority," with a copy to be served on other parties, setting forth the citations. If an authority is not available in a national reporter, a copy must be included and served on all parties. The document must state without argument the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. Any response must be filed within ten (10) days and must be similarly limited. No reply shall be allowed.

(f) *Form of Briefs.* All briefs filed pursuant to this rule shall be in the form set forth in Rule 18(b). If briefs are typewritten, they shall be on good paper of sufficient opacity to be distinctly legible. . Briefs shall be bound on the left side and not at the top. Unless authorized by order of the Court, briefs shall not exceed a total of fifty (50) pages, except that reply briefs shall not exceed twenty-five (25) pages.

If briefs are produced by commercial printing or duplicating firms, or, if produced otherwise and the covers to be described are available, the cover of the brief of the appellant should be blue; that of the appellee, red; that of an intervenor or amicus curiae, green; that of any reply brief, gray. The cover of the appendix, if separately printed, should be white. The front covers of the briefs and of appendices, if separately printed, shall contain: (1) the name of the court and the number of the case; (2) the title of the case; (3) the nature of the proceeding in the court (e.g., Appeal; Petition for Review) and the name of the court, agency, or board below; (4) the title of the document (e.g., Brief for Appellant, Appendix); and (5) the names and addresses of counsel representing the party on whose behalf the document is filed.

(g) *Effect of Failure to Comply*. A party failing to comply with any of the requirements of this rule shall not be heard, but the appellee or other adverse party shall not be considered in default for failure to file briefs if the moving party has not duly filed briefs. The clerk may reject any brief not in compliance with this rule.

(h) *Brief of Amicus Curiae*. A brief of an amicus curiae may be filed only if accompanied by written consent of all parties, or by leave of the Supreme Court granted on motion or at the request of the Court, except that consent or leave shall not be required when the brief is presented by the United States or an officer or agency thereof, or by the State of Rhode Island or an officer or agency thereof. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Unless all parties consent, an amicus curiae shall file its brief within the time allowed the party whose position as to affirmance or reversal the amicus brief will support unless the Supreme Court for cause shown shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons.

(i) *References to Parties.* In briefs and at oral argument, counsel should minimize use of the terms “appellant” and “appellee.” To make briefs clear, counsel should use the parties’ actual names or the designations used in the trial court or agency proceeding, or such descriptive terms as “the employee,” the injured person,” “the taxpayer,” “the landlord,” “the tenant.”

(j) *Unpublished orders.* Unpublished orders will not be cited by the Court in its opinions and such orders will not be cited by counsel in their briefs. Unpublished orders shall have no precedential effect.

Rule 17. Appendix to the briefs. - (a) *Duty of Appellant or Other Moving Party to Prepare and File; Content*. The appellant shall prepare a separate appendix to the brief and file five (5) copies thereof at the time of filing the brief. The appendix shall contain: (1) the relevant docket entries in the proceeding below; (2) any relevant portions of the pleadings, charge, findings or opinions; (3) the judgment, order, decision, or ruling in question; and (4) any other part of the record, including the transcript, to which the party wishes to direct the particular attention of the Court. Except as otherwise provided in subdivision (b) of this Rule, the appendix shall have a table of contents, pages separately numbered and appropriate demarcation such as tabs or colored paper separating discrete sections to assist the Court to locate portions of the record referenced in the briefs. When portions of a transcript are included in the appendix, counsel shall ensure that the cover sheet of the transcript volume and the index of witness names are included, together with sufficient pages assembled in sequence to enable the Court to read the cited passages in context.

(b) *Appendix in Criminal Cases.* In criminal cases, the provisions of subsection (a) concerning separate pagination of the appendix shall not be mandatory, provided that the parties employ alternative methods of organizing the appendix in a form which provides substantially equivalent assistance to the Court in locating portions of the record referenced in the briefs.

(c) *Duty of Appellee or Other Adverse Party to Prepare and File*. If the appellee or other adverse party deems it necessary to direct the particular attention of the Court to parts of the record not designated by the appellant in his or her appendix, the appellee shall prepare and file an appendix to his or her brief containing a designation of those parts.

(d) *Form of Appendices*. The form of appendices shall be in accordance with the provisions of Rule 16(f) except as to maximum number of pages permitted.

Rule 18. Filing, form, service and notice. - (a) *Filing*. Papers required or permitted to be filed in the Supreme Court shall be filed with the clerk. Filing may be accomplished by mail addressed to the clerk, but filing shall not be timely unless the papers are received by the clerk within the time fixed for filing, except that briefs and appendices shall be deemed filed on the day of mailing if the most expeditious form of delivery by mail, other than special delivery, is utilized.

Every appeal, petition, complaint, or other application in writing to the Court shall have the name of the attorney presenting the same endorsed thereon; and every paper filed in any case, excepting notes, deeds, or other documentary evidence, shall also have endorsed thereon the name and number of the case and a brief designation of the character of the paper. The only proof of the time of filing any paper shall be the file mark of the clerk.

(b) *Form.* All papers filed with the Court shall be eight and one-half (8½) by eleven (11) inches and double spaced, using Times New Roman font or a font of similar legibility and at least 12 as the font size; footnotes are to be single spaced and also use Times New Roman font or a font of similar legibility and at least 12 as the font size. Any papers failing to comply with the foregoing requirements may be rejected.

(c) *Service*. Copies of all papers filed by any party and not required by these rules to be served by the clerk shall, at or before the time of filing, be served by a party or a person acting for him or her on all other parties to the appeal or proceeding. Service on a party represented by counsel shall be made on counsel.

(d) *Manner of Service*. Service may be personal or by mail. Personal service shall be by delivery to the person to be served or by leaving the same at his or her office with some person in charge thereof. Service by mail shall be by regular, certified or registered mail return receipt requested. Service by mail is complete upon mailing.

(e) *Proof of Service*. Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the name of the person served, certified by the person who made service. Proof of service may appear on or be affixed to the papers filed.

(f) *Notice, Where None Required*. Whenever these rules do not expressly provide for giving notice, the Court may order that special notice be given.

Rule 18A. Sanctions for failure to file statements of the case, counter- statements and briefs in accordance with Rules 12A and 16. - In implementation of Rules 12A and 16 of these rules, relating to civil cases, the following authority is hereby conferred upon the clerk of this Court.

(1) In the event that an appellant should fail to file a statement of the case within the time limit set forth in Rule 12A or in any order entered pursuant to a single justice conference or by the Court setting a different time, the clerk shall enter a conditional order of dismissal of the appeal subject to reinstatement if the statement of the case is filed within -ten (10) days after the entry of the order.

(2) In the event that an appellee shall fail to file a counter-statement within the time limit set forth in Rule 12A or in any order entered pursuant to a single justice conference or by the Court setting a different time, following the filing of appellant's statement of the case, the clerk shall enter a conditional order of default subject to reinstatement if the counter-statement is filed within ten (10) days of the date of the order. A defaulted appellee may be barred from filing any further statements, memoranda, or briefs in support of appellee's position and may be barred from oral argument in support of that position.

(3) In the event that an appellant fails to file a brief in support of the appeal within the time limit set forth in Rule 16 or any order entered pursuant to a single-justice conference or other order entered by the Court setting a different time, the clerk shall enter an order of conditional dismissal of the appeal, subject to reinstatement if the brief is filed within ten (10) days of the date of the conditional dismissal.

(4) In the event that an appellee fails to file a brief in support of the appellee's position within the time limit set forth in Rule 16 after filing of appellant's brief or such additional time as may be authorized by court order, the clerk shall enter an order of conditional default subject to reinstatement of the appellee's right to proceed if the brief is filed within ten (10) days of the date of the order. The order of default will have the effect of barring the appellee from filing any brief in support of appellee's position or from arguing orally to the Court in opposition to the appellant's argument.

In addition to the foregoing actions which may be taken by the clerk, the Court may impose sanctions upon attorneys for failure to meet their filing obligations in respect to appellate matters pending before this Court. Such sanctions may include monetary penalties to be paid to the opposing parties or to the Court, or both.

Rule 19. Appearances. - Within the time required for the filing of statements of the case pursuant to Rule 12A of these rules, or the filing of briefs in cases in which Rule 12A is not applicable, counsel for each party shall file with the clerk of the Supreme Court a written appearance, setting forth his or her individual name, address, and telephone number. A copy of the appearance shall be served upon every other party. When more than one attorney represents a single party or group of parties, counsel shall designate a particular attorney to whom notice is to be sent. No attorney shall be permitted to conduct an argument or address the Court or any justice thereof on behalf of a party without first having filed an entry of appearance on behalf of such party with the clerk. Attorneys who are not appointed by the Supreme Court in the ordinary course following docketing of an appeal, and prior to the performance of appellate services, shall not be appointed as appellate counsel *nunc pro tunc* and will not be compensated for any services performed in advance of their appointment, in the absence of extraordinary circumstances.

Rule 20. Computation and extension of time. - (a) *Computation of Time*. In computing any period of time prescribed by these rules, by an order of the Court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday.

(b) *Enlargement*. Except as otherwise provided in subsection (c) or in these rules, when by these rules or by order of the Supreme Court an act is required or allowed to be done at or within a specified time, the Supreme Court clerk's office may, upon motion, grant one thirty (30) day extension. Thereafter, the clerk may, upon motion, grant an additional thirty (30) day extension, or two (2) additional thirty (30) day extensions in criminal cases, unless an objection is filed within seven (7) days of filing of the motion to extend, in which case the motion shall be resolved by the Court. No further extensions shall be granted unless authorized by order of the Court for good cause shown. However, the Court may not extend the time for filing a notice of appeal. This subdivision shall not apply to petitions for reargument pursuant to Rule 25.

(c) *Enlargement in criminal cases in which full briefing is ordered*. When any party in a criminal case believes in good faith that more than three (3) requests for extension of time will be required in any matter in which full briefing is ordered, the parties, on motion after consultation, may establish a briefing schedule in advance, subject to approval by the Court.

(d) *Additional Time After Service by Mail*. Whenever a party has the right or is required to do some act or take some proceeding within a prescribed period after service of a notice or other paper upon him or her and the notice or paper is served by mail, one (1) day shall be added to the prescribed period.

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Current with amendments received through 11-25-2003.

Rule 21. Docketing. - (a) *Classes of Cases*. All cases shall be docketed and numbered consecutively and followed by such designations as the clerk may deem appropriate.

(b) *Extraordinary and Prerogative Writs*. Petitions for extraordinary and prerogative writs and processes, proceedings in equity originally entered in the Supreme Court, and all other matters not expressly provided for by this rule shall be docketed under Miscellaneous Petitions and Appeals. Such matters shall be docketed on the return day.

(c) *Criminal Matters*. Criminal appeals, petitions for trials and new trials in criminal cases, and all questions certified from trial courts in criminal proceedings shall be docketed under Criminal Matters.

(d) *Civil Matters*. Civil appeals, petitions for trials and new trials in civil cases, and all questions certified from trial courts in civil cases shall be docketed under Civil Matters.

Rule 22. Assignment of cases. - (a) *Argument List*. The clerk shall keep a current argument list, placing thereon in order each case thirty (30) days after the moving party's briefs have been filed pursuant to these rules or five (5) days after the adverse party's briefs have been so filed, whichever day is sooner. The appeals shall be arranged in two (2) groups: Group A, cases entitled to priority by statute, criminal cases, election cases, cases in which the State is an actual party in interest, cases involving termination of parental rights, habeas corpus proceedings, and other cases designated by special order; Group B, all other cases. Cases shall be assigned hearing dates by the clerk in the order in which they appear on the argument list. The cases in Group A shall be heard first, then the cases in Group B. Counsel shall be notified by the clerk of the date assigned for the hearing of a case.

(b) *Sessions of Court*. The Court will be in open session to hear arguments on assigned court days during the months of September, October, November, December, January, February, March, April and May. The Court may also be in open session and hear arguments at such other times as it may by special order designate. The Court will not hear arguments or hold open sessions on Saturday, Sunday, legal holidays, Good Friday, the Day of Atonement or Commencement Days at Brown University and Providence College.

(c) *Number of Cases; Call of Calendar*. Except as otherwise ordered by the Court not more than seven (7) cases shall be assigned for hearing on any day. For the purpose of this rule two (2) or more cases which are part of a trial group in which the same questions are involved shall be treated as one case. The calendar shall be called at 9:30 a.m. Cases assigned and called ready for hearing shall be heard immediately thereafter.

(d) *Continuances; Special Assignments*. For good cause shown the Court may continue a case or order its assignment to a day certain. No stipulation to pass or continue a case will be binding upon the Court.

(e) *Engagements of Counsel*. Cases on the current argument list shall be in order for disposition when reached without regard to engagements of counsel before other courts; however, the reaching of a case for hearing in this Court shall not require the vacation of a case in order for hearing in any other court nor excuse counsel from attendance thereat other than for a period of time sufficient to permit the completion of his or her engagement before this Court.

(f) *Dismissal of Cases Not Argued*. A case reached for argument and not heard may be dismissed or made the subject of such other order as the Court may deem appropriate under the circumstances. In the event of absence of counsel or either of them at the time the case is in order for hearing, the Court may hear the cause or decide it solely upon the briefs.

Rule 23. Affidavits. - In all cases in which affidavits are admissible, the petitioner shall file his or her affidavits at least five (5) days before the day set for hearing. If counter affidavits are admissible they shall be filed at least three (3) days before the day of hearing, unless otherwise allowed by the Court.

Rule 24. Arguments. - (a) *Content*. During oral argument, counsel should undertake to emphasize and clarify the written argument appearing in the brief. The Court looks with disfavor on any oral argument that is read from a prepared text.

(b) *Order of Argument; Time*. The appellant or petitioner shall be entitled to open and conclude the argument. In cases on the show cause calendar for which oral argument is allowed, each side shall be entitled to ten (10) minutes for presentation of argument, and the appellant or petitioner shall be allowed an additional two (2) minutes for rebuttal. In cases placed on the regular calendar for full briefing and oral argument, each side shall be allowed thirty (30) minutes for presentation of argument, and the appellant or petitioner shall be allowed ten (10) minutes for rebuttal.

Rule 25. Reargument. - (a) *Petitions*. Petitions for reargument of causes heard and decided, including those petitions requesting reargument before the full court because this Court has evenly divided in an opinion, shall be filed within ten (10) days after filing of the decision. Each petition shall be accompanied by nine (9) copies thereof. The petitioner shall file with his or her petition a memorandum setting forth the grounds upon which he or she relies.

(b) *Memorandum in Opposition*. Counsel for any adverse party may within ten (10) days after receipt of petitioner's papers file his or her memorandum in opposition to the granting of the petition to reargue, accompanied by nine (9) copies thereof.

(c) *Service*. A copy of all papers filed pursuant to this rule shall be served upon every other party or his or her attorney in the manner provided by Rule 18.

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Rule 26. Agreements. - All agreements of parties or attorneys touching the business of the Court shall be in writing. An agreement not in writing will be invalid.

Rule 26A. Withdrawal of attorney. - No attorney who has appeared in any case before this Court, either by entry of appearance, filing of notice of appeal, or who was counsel of record in a trial court at the time a notice of appeal was filed either by the attorney or by the attorney for the adverse party, will be allowed to withdraw without the consent of the Court. Except where another attorney enters an appearance at the time of such withdrawal, all requests to withdraw shall be upon motion with reasonable notice to the party represented and to the adverse party. No such motion shall be granted unless the attorney who seeks to withdraw shall file with the clerk the last known address of his or her client, or the client files his or her address, and in either situation the address which is filed shall be the official address to which notices may be sent. A motion for withdrawal shall be accompanied by an affidavit setting forth facts showing the military status of the client or by a written statement of the client consenting to such withdrawal. In the event that an attorney is permitted to withdraw, the attorney shall notify the client in writing that his or her motion to withdraw has been granted. The attorney shall further notify the client of his or her obligation to file prebriefing statements and also of his or her obligation to file briefs pursuant to the time schedule set forth in Rule 12A or Rule 16, as said rules may be applicable.

Rule 27. Amendments. - If the Court allows amendments to any pleadings in a case, they shall be embodied in a fair copy of the whole paper as amended, which shall then be substituted for the original. Slight amendments which do not affect legibility may be made on the face of the original paper.

Rule 28. Motions. - (a) *Supporting Memorandum*. Except as otherwise provided by these rules, every motion or petition, including petitions for trials or new trials or for leave to take and prosecute appeals, shall be accompanied by a brief memorandum setting out the grounds therefor and citing the authorities relied upon. Each motion and memorandum, together with nine (9) copies, shall be filed with the clerk.

(b) *Memorandum in Opposition*. A memorandum in opposition to a motion, together with nine (9) copies, may be filed with the clerk by any adverse party within ten (10) days of service of the movant's motion and memorandum.

(c) *Reply Memorandum.* The moving party may file a reply memorandum within ten (10) days after service of the memorandum in opposition. No party may file a supplemental memorandum without the prior approval or direction of the Court.

(d) If the Court grants a motion to expedite the appeal, the moving party shall not be granted an extension to file any briefs without the express permission of the Court. The provisions of Rule 20(b) shall not apply.

(e) *Papers Filed Under Seal*. A party wishing to file any papers under seal shall move for permission at the time the papers are filed. Said papers shall be conditionally filed under seal pending order of the Court.

Rule 29. Taking out transcripts and exhibits. - (a) A party in a matter before the Court may take out a transcript upon leaving a receipt with the clerk. A party in a pending appeal may keep such transcript for a maximum of three (3) weeks, unless when the transcript is initially taken out by any party the case has been assigned for hearing, in which event the transcript may be kept for one half (1/2) the time which shall elapse between the date it is taken out and the date to which the case has been assigned for hearing. Upon return of a transcript it may be taken out by the opposing side and kept for three (3) weeks or for the remainder of the time which shall elapse between the time of taking out and the date to which the case has been assigned for hearing. Except as otherwise provided in subsection (b), a party may not retain the transcript longer than three (3) weeks unless the period is extended by order of the Court upon motion; nor may a party who has previously taken out a transcript of evidence take it out again without the consent of the opposing side unless the opposing side has had an opportunity for three (3) days to take out the transcript and has failed to do so.

(b) In criminal cases, the clerk's office may, upon motion, grant one three (3) month extension, provided, however, that the party make the transcripts available to the Court or opposing counsel on an "as needed" basis. Thereafter, a party must, upon motion, seek permission from the Court for an additional three (3) month extension.

(c) A party may take out exhibits only with leave of the Court granted upon motion, which sets forth precisely the exhibits the party wishes to remove, the reason for the withdrawal, and the duration of the removal, as well as any measures that will be taken to safeguard the integrity of the exhibits.

Rule 30. Appeals and exceptions with respect to rulings and decisions after judgment. - Decisions and orders of a trial court subsequent to judgment may be appealed in the same manner, as near as may be, as judgments. An appeal from a judgment preserves for review any claim of error in an order upon a reserved motion for a directed verdict, a motion to amend findings, a motion to amend judgment, a motion for a new trial and a motion in arrest of judgment. An appeal from such an order shall be treated as an appeal from the judgment.

Rule 31. Appeals from judgments in cases referred to auditors. - When a case is referred to an auditor and a final judgment is entered upon the report of the auditor by the Superior Court without a jury trial, a party aggrieved may appeal such judgment in the same manner as an appeal from a judgment in a civil action heard on the merits by the Superior Court without a jury.

Rule 32. Cases involving constitutionality of federal or state statutes. - (a) *Constitutionality of Federal Statute*. A party who draws in question the constitutionality of any Act of Congress in any proceeding in the Supreme Court to which the United States, or any agency thereof, or any officer or employee thereof, as such officer or employee, is not a party, upon the filing of the record, or as soon thereafter as the question is raised in the Supreme Court, shall give immediate notice in writing to the Supreme Court of the existence of said question. The clerk of the Court shall thereupon certify such fact to the United States Attorney for the District of Rhode Island.

(b) *Constitutionality of State Statute*. A party who draws in question the constitutionality, under the United States Constitution or the Rhode Island Constitution, of any Act of the General Assembly of Rhode Island in any proceeding in the Supreme Court to which the State of Rhode Island, or any agency thereof, or any officer or employee thereof, as such officer or employee, is not a party, upon the filing of the record, or as soon thereafter as the question is raised in the Supreme Court, shall give immediate notice in writing to the Supreme Court of the existence of said question. The clerk of the Court shall thereupon certify such fact to the Attorney General of Rhode Island.

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Rule 33. Stenographic recording and taking of testimony in the Supreme Court. - The Supreme Court does not record its proceedings. If a party desires to preserve a stenographic record of the proceedings, including cases in which testimony is taken before the Court, the party shall move in advance of the proceedings for permission to employ a certified court stenographer at his or her own expense.

Rule 34. Conferences with duty justice. – (a) All conferences with the duty justice shall be arranged through the office of the Administrative Assistant to the Chief Justice.

(b) Any motion to be addressed to the duty justice shall, unless otherwise ordered by the Court, or any justice thereof, first be filed with the clerk of the Supreme Court. Every such motion shall comply with the provisions of Rule 28, and shall be accompanied by the movant's certificate (1) stating that every practicable effort was made to notify all interested parties of the motion and of movant's intention to seek conference with the duty justice thereon and (2) stating when and how interested parties were notified, or if they were not notified, why it was not practicable to give them such notice. Ordinarily, no conference will be permitted on any motion hereunder unless the movant has first invoked this Court's jurisdiction, such as through the filing of a notice of appeal or petition for extraordinary writ. The term "motion" shall include any motion, petition, application, or other request for relief which may be addressed to this Court.

(c) After a motion has been filed in accordance with the provisions of subsection (b), the Administrative Assistant to the Chief Justice shall promptly transmit said motion to the duty justice and shall in due course advise the movant of the time the conference on such motion has been scheduled and of the justice who will consider the motion. The movant shall then notify all interested parties, by means as speedy as may be appropriate, of the scheduled conference. Any party opposing the motion shall file a response thereto with the clerk's office prior to the scheduled conference, if practicable, or, if not, as soon thereafter as is possible, or as otherwise ordered by the duty justice or the Court.

(d) The purpose of this order is to establish a formal procedure for arranging conferences with the duty justice, and the provisions hereof shall not be construed to alter or in any way affect the provisions of any other order, statute or rule relating to the filing of motions.